"The photograph of Dane Hall forcibly brings to my mind younger days. The building had but one room below and a single room above. The Library in the lower, and lecture and recitation room above. The Library had books on shelving on the three sides other than the front. The stairs were next the front wall. In the upper room, rows of benches ten feet long with backs plainly made, and there were our seats. The Professors occupied for two hours each day save Saturday and Sunday a chair at the west end. In winter Judge Story was absent about six weeks in attendance on the Supreme Court at Washington. The Library was used for Moot Courts, [and was] seated with chairs. Often Judge Story held his U. S. Court in the Library instead of at Boston, and the eminent lawyers of that day pleaded their cases not requiring a jury there. . . .

"Professor Greenleaf submitted this question at a Moot Court, and assigned me as one of the attorneys. For an associate (for two were put on each side) by chance a young man from the city of New York was given me. This young man was son of *the* millionaire of New York at that time, — boarded at the Tremont House in Boston, came to class now and then in a fine carriage, match horses, liveried servant, woolly dog, etc. . . . Judge Story was a low, heavy-set man, — very fair skin, blue eyes, with but little hair on his head, being very bald save a little tuft on the top of his forehead which he often combed during lectures with a fine comb carried in his vest pocket. He was easy of access and beloved by the young men. An eloquent lecturer, and often 'loomed,' as the young men called it. He kept up constant letter writing to and with many of the great men of Europe. Professor Greenleaf was taller, black hair in profusion, and keen black eyes. I have heard him say, I believe, he was forty years old before he began studying law in Maine where he was raised. He was not popular with the boys, being sometimes sarcastic. His mind was acute and his reasoning hair-splitting. I was one of a committee he requested to index his book on Evidence, and we worked faithfully to correctly do so. I hardly think, though he adopted our work, that he was satisfied with it."

GREAT ENGLISH JUDGES — KING'S BENCH. — From 1756 to 1788, William Murray, Baron and later Earl Mansfield, was Chief Justice of the Court of King's Bench. A man of broad learning and culture, an able statesman, an eloquent and convincing debater, and a graceful writer, Lord Mansfield is generally called the greatest of common law judges. Although he introduced in his court certain equitable doctrines which later and more enlightened consideration found to rest on no sound basis, and although he caused wide-spread dissatisfaction and indignation by holding that libel was a question for the determination of the court, yet his decisions on the whole, and especially in the field of mercantile litigation, strengthened and enriched the English law. Lord Mansfield was of Scotch origin, was educated at Oxford, became a member of both Houses of Parliament in turn, held the office of Attorney General, and three times refused an offer of the Great Seal. An account of his brilliant political career would comprise a history of England during his time. He took a prominent part in urging war with America; he was a member of the Cabinet during the perplexing period of the King's insanity; he held general warrants illegal, and reversed the outlawry of the notorious John Wilkes; he was bitterly attacked in certain of the

"Junius" letters; and he was the special object of mob violence during the Gordon "No Popery" riots. For years he fought Pitt in debate in the Commons, and, later, the forensic contest thus begun was carried on between him and Chatham in the Lords. His character, admirable for the noble breadth of his genius, was marred by a certain lack of moral courage and a coldness of affection. He had a passion to be a great judge, and sincerely loved his work. His manner in court and his method of despatching business were excellent; his judgments were perspicuous and in good style. He died in retirement in 1793.

From 1802 to 1818, Edward Law, Baron Ellenborough, was Chief Justice of the Court of King's Bench. He was educated at Cambridge, was made King's Counsel in 1780, and, though originally a Whig, he deserted that party in alarm at the excesses of the French Revolution, and was appointed Attorney General by the Tory government in 1801. As Mr. Law he acted as leading counsel for Warren Hastings in the impeachment trial before the House of Lords; his speech on that occasion, lasting three days, was an excellent specimen of oratorical power. A man of great intellectual vigor and of vast legal knowledge, Ellenborough was a robust but hardly an ideal judge. Though of undoubted integrity, his intolerance of contradiction and his violent prejudices laid certain of his decisions, especially in political cases, fairly open to the charge of partiality. Notorious too was his habit of browbeating juries and of upbraiding counsel. His judgments in mercantile cases, however, stand as high authority. He thought the criminal law could not be too severe, and was influential in passing a bill adding ten crimes to the list of those punishable by death. He was at one time a member of the Cabinet, and refused an offer of the Chancellorship. As a debater in the Lords he was fiery, strong, and effective, but hardly properly courteous to his opponents, beating down their arguments rather than meeting them by logic and reason. In person he was tall and clumsy, with shaggy eyebrows and commanding forehead.

From 1859 to 1875, Sir Alexander James Edmund Cockburn, Bart., was Chief Justice of the Court of Queen's Bench; by operation of the Judicature Acts in 1875, he became head of the Queen's Bench Division of the High Court of Justice and first Chief Justice of England, which position he held till 1880. He came from an old Scotch family, was educated at Cambridge, was reform member for Southampton, Attorney General, and from 1856 to 1859 Chief Justice of the Common Pleas. He refused a peerage. A fluent linguist, and possessed of a singularly expressive and sympathetic voice, he was considered the most pleasingly vivacious and graceful speaker of his time. He sprang into fame by his defence of Lord Palmerston's conduct in the Don Pacifico dispute with Greece. He presided at the trial for perjury of the Tichborne Claimant, delivering an exhaustive summing up which lasted eighteen days; and he was one of England's arbitrators in the settlement of the Alabama Claims at Geneva, dissenting from the award as being excessive. Cockburn was a good judge; his opinions were well expressed, and his conduct of trials at Nisi Prius was admirable. He had not in youth, however, laid the foundations for a comprehensive legal education, that period of his life having been devoted to pleasure rather than to industry, and much of his learning was acquired from sitting on the bench with Mr. Justice Blackburn. A man of great magnetism and charm, his personality stands out more clearly than his merely judicial character. He was

fond of society, of yachting, of the opera, of all amusements; he was a capital host, and used to gather at his famous table the brilliant and interesting people of the day. In the street he is said to have appeared "for all the world like a groom taking a holiday," but on the bench his presence was dignified and imposing.

RECENT CASES.

AGENCY — MASTER AND SERVANT. — Plaintiff was sent with a horse by his employer to do work for defendant. He was under the immediate control and direction of the defendant's foreman, and while engaged in the work was injured by negligence of one of defendant's servants. *Held*, that he was not a servant of defendant so as to fall within the fellow-servant rule. *Murray* v. *Dwight*, 44 N. Y. Supp. 234.

The court go on the ground that the defendant did not select and hire the plaintiff, and suggest also that *Quarman* v. *Burnett*, 6 M. & W. 499, indicates that the hiring of the horse with the driver puts the case on a different basis from the hiring of one's servant alone. This suggestion hardly appeals to one's reason, and the dissenting judge seems to take a better view in following *Hasty* v. *Sears*, 157 Mass. 123, and *McInerney* v. *Canal Co.*, 151 N. Y. 411, which hold the fact that the plaintiff was under the defendant's control as to details to be the decisive circumstance in determining their relation. This rule was followed also in a recent Massachusetts case, *Samuelian* v. *American, &c. Co.*, 46 N. E. Rep. 98.

BILLS AND NOTES — DESTROYED NOTE — INDEMNITY. — *Held*, that the holder of a note which is destroyed may recover on the note without giving a bond of indemnity. *Filley* v. *Turner*, 47 Pac. Rep. 1037 (Col.).

It seems reasonable, considering the uncertainty of all proof, to require the plaintiff to indemnify the maker against any possibility of future annoyance or expense in the matter, even where the note is found by the jury to have been destroyed. This is the logical result of the reasoning in *Hansard* v. *Robinson*, 7 B. & C. 90; see Story, Prom. Notes, 5th ed. § 449; and it is the practice in England under 45 and 46 Vict. c. 61, §§ 69 and 70; Byles on Bills, 5th ed., 392, n. It is also the law in a few American jurisdictions. *Welton* v. *Adams*, 4 Cal. 37; *Dumas* v. *Powell*, 2 Dev. & B. Eq. 122; *Irwin* v. *Planters' Bank*, 1 Humph. 145. The weight of American authority is, however, in accord with the principal case. *Sebree* v. *Dorr*, 9 Wheat. 558; *Palmer* v. *Logan*, 4 Ill. 56; *Des Arts* v. *Leggett*, 16 N. Y. 582; *Moses* v. *Trice*, 21 Grat. 556.

BILLS AND NOTES — EXECUTION. — In an action by payee against a surety upon a promissory note, *held*, that the execution of a note includes its delivery, and therefore a denial by a surety of the authority of the maker to deliver the note without the signature of the co-surety is, in substance, a plea of *non est factum*. *Lomax* v. *First Nat. Bank*, 39 S. W. Rep. 655 (Tex.).

The court appears to have reached a sound result on the facts, but the reasoning seems erroneous on principle. The note was in effect delivered to the maker in escrow, and then in breach of the condition delivered to the payee. But it is difficult to see how it can be said that there was no delivery, and that the two essentials of execution, signing and delivery, were not present. The correct theory in such cases is that there is due execution, but that such an agreement as was made here may be a personal defence, effective, as in this case, because the payee had notice, and that the plea is an equitable one, and not *non est factum*. On the principles adopted by the court, the settled law, that if plaintiff here had had no notice or had been a *bona fide* vendee of the payee, he could have recovered, can be worked out only on the theory that the defendant would have been estopped to deny execution. But this would throw the burden of establishing *bona fides* and value on the plaintiff, whereas it should rest upon the defendant, who seeks to avoid the effect of execution; and this is a very practical objection to such a theory. See *Marston* v. *Allen*, 8 M. & W. 494; *Bell* v. *Viscount Ingestre*, 12 Q. B. 317, for forms of pleas in cases of indorsements under like circumstances.

CONSTITUTIONAL LAW — EQUAL PROTECTION OF THE LAWS — A statute of Texas provided that life insurance companies failing to pay a loss within the time specified in the policy should be liable to pay the holder twelve per cent of the amount of the loss,